

SB1715



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1715

Introduced 2/19/2009, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

5 ILCS 315/7
115 ILCS 5/10

from Ch. 48, par. 1607
from Ch. 48, par. 1710

Amends the Illinois Public Labor Relations Act and the Illinois Educational Labor Relations Act. Establishes a time frame within which an initial agreement must be reached or conciliation and arbitration attempted.

LRB096 08508 JAM 18628 b

A BILL FOR

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Labor Relations Act is
5 amended by changing Section 7 as follows:

6 (5 ILCS 315/7) (from Ch. 48, par. 1607)

7 Sec. 7. Duty to bargain. A public employer and the
8 exclusive representative have the authority and the duty to
9 bargain collectively set forth in this Section.

10 For the purposes of this Act, "to bargain collectively"
11 means the performance of the mutual obligation of the public
12 employer or his designated representative and the
13 representative of the public employees to meet at reasonable
14 times, including meetings in advance of the budget-making
15 process, and to negotiate in good faith with respect to wages,
16 hours, and other conditions of employment, not excluded by
17 Section 4 of this Act, or the negotiation of an agreement, or
18 any question arising thereunder and the execution of a written
19 contract incorporating any agreement reached if requested by
20 either party, but such obligation does not compel either party
21 to agree to a proposal or require the making of a concession.

22 The duty "to bargain collectively" shall also include an
23 obligation to negotiate over any matter with respect to wages,

1 hours and other conditions of employment, not specifically
2 provided for in any other law or not specifically in violation
3 of the provisions of any law. If any other law pertains, in
4 part, to a matter affecting the wages, hours and other
5 conditions of employment, such other law shall not be construed
6 as limiting the duty "to bargain collectively" and to enter
7 into collective bargaining agreements containing clauses which
8 either supplement, implement, or relate to the effect of such
9 provisions in other laws.

10 The duty "to bargain collectively" shall also include
11 negotiations as to the terms of a collective bargaining
12 agreement. The parties may, by mutual agreement, provide for
13 arbitration of impasses resulting from their inability to agree
14 upon wages, hours and terms and conditions of employment to be
15 included in a collective bargaining agreement. Such
16 arbitration provisions shall be subject to the Illinois
17 "Uniform Arbitration Act" unless agreed by the parties.

18 The duty "to bargain collectively" shall also mean that no
19 party to a collective bargaining contract shall terminate or
20 modify such contract, unless the party desiring such
21 termination or modification:

22 (1) serves a written notice upon the other party to the
23 contract of the proposed termination or modification 60 days
24 prior to the expiration date thereof, or in the event such
25 contract contains no expiration date, 60 days prior to the time
26 it is proposed to make such termination or modification;

1 (2) offers to meet and confer with the other party for the
2 purpose of negotiating a new contract or a contract containing
3 the proposed modifications;

4 (3) notifies the Board within 30 days after such notice of
5 the existence of a dispute, provided no agreement has been
6 reached by that time; and

7 (4) continues in full force and effect, without resorting
8 to strike or lockout, all the terms and conditions of the
9 existing contract for a period of 60 days after such notice is
10 given to the other party or until the expiration date of such
11 contract, whichever occurs later.

12 The duties imposed upon employers, employees and labor
13 organizations by paragraphs (2), (3) and (4) shall become
14 inapplicable upon an intervening certification of the Board,
15 under which the labor organization, which is a party to the
16 contract, has been superseded as or ceased to be the exclusive
17 representative of the employees pursuant to the provisions of
18 subsection (a) of Section 9, and the duties so imposed shall
19 not be construed as requiring either party to discuss or agree
20 to any modification of the terms and conditions contained in a
21 contract for a fixed period, if such modification is to become
22 effective before such terms and conditions can be reopened
23 under the provisions of the contract.

24 Collective bargaining for personal care attendants and
25 personal assistants under the Home Services Program shall be
26 limited to the terms and conditions of employment under the

1 State's control, as defined in the amendatory Act of the 93rd
2 General Assembly.

3 Collective bargaining for child and day care home providers
4 under the child care assistance program shall be limited to the
5 terms and conditions of employment under the State's control,
6 as defined in this amendatory Act of the 94th General Assembly.

7 Notwithstanding any other provision of this Section,
8 whenever collective bargaining is for the purpose of
9 establishing an initial agreement following certification or
10 recognition, the following apply:

11 (1) Not later than 10 days after receiving a written
12 request for collective bargaining from an individual or
13 labor organization that has been newly organized or
14 certified as a representative as defined in Section 6(c),
15 or within such further period as the parties agree upon,
16 the parties shall meet and commence to bargain collectively
17 and shall make every reasonable effort to conclude and sign
18 a collective bargaining agreement.

19 (2) If after the expiration of the 90-day period
20 beginning on the date on which bargaining is commenced, or
21 such additional period as the parties may agree upon, the
22 parties have failed to reach an agreement, either party may
23 notify the Illinois Department of Labor Conciliation and
24 Mediation Division of the existence of a dispute and
25 request mediation. Whenever such a request is received, it
26 shall be the duty of the Division promptly to put itself in

1 communication with the parties and to use its best efforts,
2 by mediation and conciliation, to bring them to agreement.

3 (3) If after the expiration of the 30-day period
4 beginning on the date on which the request for mediation is
5 made under paragraph (2), or such additional period as the
6 parties may agree upon, the Division is not able to bring
7 the parties to agreement by conciliation, the Division
8 shall refer the dispute to an arbitration board established
9 in accordance with such regulations as may be prescribed by
10 the Division. The arbitration panel shall render a decision
11 settling the dispute and such decision shall be binding
12 upon the parties for a period of 2 years, unless amended
13 during such period by written consent of the parties.

14 (Source: P.A. 93-204, eff. 7-16-03; 94-320, eff. 1-1-06.)

15 Section 10. The Illinois Educational Labor Relations Act is
16 amended by changing Section 10 as follows:

17 (115 ILCS 5/10) (from Ch. 48, par. 1710)

18 Sec. 10. Duty to bargain.

19 (a) An educational employer and the exclusive
20 representative have the authority and the duty to bargain
21 collectively as set forth in this Section. Collective
22 bargaining is the performance of the mutual obligations of the
23 educational employer and the representative of the educational
24 employees to meet at reasonable times and confer in good faith

1 with respect to wages, hours and other terms and conditions of
2 employment, and to execute a written contract incorporating any
3 agreement reached by such obligation, provided such obligation
4 does not compel either party to agree to a proposal or require
5 the making of a concession.

6 (b) The parties to the collective bargaining process shall
7 not effect or implement a provision in a collective bargaining
8 agreement if the implementation of that provision would be in
9 violation of, or inconsistent with, or in conflict with any
10 statute or statutes enacted by the General Assembly of
11 Illinois. The parties to the collective bargaining process may
12 effect or implement a provision in a collective bargaining
13 agreement if the implementation of that provision has the
14 effect of supplementing any provision in any statute or
15 statutes enacted by the General Assembly of Illinois pertaining
16 to wages, hours or other conditions of employment; provided
17 however, no provision in a collective bargaining agreement may
18 be effected or implemented if such provision has the effect of
19 negating, abrogating, replacing, reducing, diminishing, or
20 limiting in any way any employee rights, guarantees or
21 privileges pertaining to wages, hours or other conditions of
22 employment provided in such statutes. Any provision in a
23 collective bargaining agreement which has the effect of
24 negating, abrogating, replacing, reducing, diminishing or
25 limiting in any way any employee rights, guarantees or
26 privileges provided in an Illinois statute or statutes shall be

1 void and unenforceable, but shall not affect the validity,
2 enforceability and implementation of other permissible
3 provisions of the collective bargaining agreement.

4 (c) The collective bargaining agreement negotiated between
5 representatives of the educational employees and the
6 educational employer shall contain a grievance resolution
7 procedure which shall apply to all employees in the unit and
8 shall provide for binding arbitration of disputes concerning
9 the administration or interpretation of the agreement. The
10 agreement shall also contain appropriate language prohibiting
11 strikes for the duration of the agreement. The costs of such
12 arbitration shall be borne equally by the educational employer
13 and the employee organization.

14 (d) Once an agreement is reached between representatives of
15 the educational employees and the educational employer and is
16 ratified by both parties, the agreement shall be reduced to
17 writing and signed by the parties.

18 (e) Notwithstanding any other provision of this Section,
19 whenever collective bargaining is for the purpose of
20 establishing an initial agreement following certification or
21 recognition, the following apply:

22 (1) Not later than 10 days after receiving a written
23 request for collective bargaining from an individual or
24 labor organization that has been newly organized or
25 certified as a representative as defined in Section 7(a),
26 or within such further period as the parties agree upon,

1 the parties shall meet and commence to bargain collectively
2 and shall make every reasonable effort to conclude and sign
3 a collective bargaining agreement.

4 (2) If after the expiration of the 90-day period
5 beginning on the date on which bargaining is commenced, or
6 such additional period as the parties may agree upon, the
7 parties have failed to reach an agreement, either party may
8 notify the Illinois Department of Labor Conciliation and
9 Mediation Division of the existence of a dispute and
10 request mediation. Whenever such a request is received, it
11 shall be the duty of the Division promptly to put itself in
12 communication with the parties and to use its best efforts,
13 by mediation and conciliation, to bring them to agreement.

14 (3) If after the expiration of the 30-day period
15 beginning on the date on which the request for mediation is
16 made under paragraph (2), or such additional period as the
17 parties may agree upon, the Division is not able to bring
18 the parties to agreement by conciliation, the Division
19 shall refer the dispute to an arbitration board established
20 in accordance with such regulations as may be prescribed by
21 the Division. The arbitration panel shall render a decision
22 settling the dispute and such decision shall be binding
23 upon the parties for a period of 2 years, unless amended
24 during such period by written consent of the parties.

25 (Source: P.A. 84-832.)